



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

October 8, 2010

CBCA 2035-RELO

In the Matter of JAMES L. THOMAS II

James L. Thomas II, Louisville, KY, Claimant.

Anne M. Schmitt-Shoemaker, Deputy Director, Finance Center, United States Army Corps of Engineers, Millington, TN, appearing for Department of the Army.

KULLBERG, Board Judge.

Claimant, Mr. James L. Thomas II, an employee of the United States Army Corps of Engineers (USACE), seeks reimbursement in the amount of \$334.80 for the cost of storage in transit (SIT) of his household goods (HHG) beyond the 180-day period for which he was reimbursed. For the reasons stated below, reimbursement for SIT after 180 days is allowed only under a limited set of circumstances that do not apply in this case, so this Board cannot allow Mr. Thomas reimbursement for additional storage costs.

Background

Mr. Thomas was transferred in a permanent change of station (PCS) move from his previous place of employment to Louisville, Kentucky. His PCS orders authorized SIT for a period of ninety days. Mr. Thomas placed his HHG in storage on October 9, 2009, and he reported to his new duty station on October 13, 2009. Mr. Thomas submitted a request to participate in the Defense National Relocation Program (DNRP), which was approved on November 6, 2009. By an amendment to his PCS orders, Mr. Thomas was authorized an additional period of ninety days for SIT on December 9, 2009. On December 10, 2009, Mr. Thomas executed a listing agreement for the sale of his home at his previous duty station

for a period of sixty days. At the end of that sixty-day period, the relocation service purchased Mr. Thomas's home, and he was then qualified to obtain a loan for the purchase of a home at his new duty station. By letter dated February 26, 2010, Mr. Thomas was advised by Department of the Army's transportation division that the 180-day period for SIT would end on April 6, 2010, and that he would be responsible for storage costs after that date. Mr. Thomas incurred additional costs for storage after April 6, 2010, and he sought reimbursement for ninety days of storage in the amount of \$334.80, which was denied. Subsequently, Mr. Thomas filed his claim with the Board.

Discussion

The issue presented in this matter is whether Mr. Thomas can be reimbursed for SIT in excess of 180 days. Mr. Thomas contends that his participation in the DNRP delayed his eligibility to apply for a home loan, and such delay is a limited circumstance that would allow reimbursement for more than 180 days of SIT. The USACE contends that reimbursement for SIT beyond 180 days is not authorized.

The Federal Travel Regulation (FTR) states the following:

Is there a time limit for the temporary storage of an authorized HHG shipment?

The initial period of temporary storage at Government expense shall not exceed 90 days in connection with any authorized HHG shipment. The HHG may be placed in temporary storage at origin, in transit, at destination, or any combination thereof. However, upon your written request, an additional 90 days may be authorized by the designated agency official. In no case may the maximum time limit for temporary storage exceed 180 days.

41 CFR 302-7.8 (2009) (FTR 302-7.8). The Joint Travel Regulations (JTR), which are also applicable in this case, provide the following:

SIT ([in connection with] authorized HHG transportation) should not exceed 90 days unless the employee requests (in writing) an additional period, [not to exceed] 90 days, that is authorized/approved by a Service/Defense AGENCY designated official. If no additional storage is authorized/approved, the employee is financially responsible for the additional storage expense (FTR § 302-7.8).

JTR C5190-B.1. The JTR further provides that “[o]nly in very limited circumstances can SIT be authorized beyond 180 days, (i.e., when the maximum SIT period is insufficient for an employee on a PCS that is interrupted by an en route TDY assignment to a location such as Afghanistan or Iraq (CBCA 875-RELO, 9 January 2008)).” *Id.* C5191-B (emphasis in original).

Mr. Thomas contends that he incurred additional storage costs because his participation in the DNRP delayed him in obtaining a loan for his new home, and such a delay is a limited circumstance under JTR C5191-B that allows reimbursement for SIT for more than 180 days. This Board has recognized that the only limited circumstances under that JTR section are when a PCS move is interrupted by a TDY assignment to a location such as Afghanistan or Iraq. *See Stephen F. Fischer*, CBCA 875-RELO, 08-1 BCA ¶ 33,771, at 167,162. Such limited circumstances are not present in this case. Although Mr. Thomas argues that his participation in the DNRP is a limited circumstance under JTR C5191-B that justifies additional reimbursement, the Board made clear in the *Fischer* decision that it “can only permit reimbursement for those amounts allowed under applicable statutes and regulations.” 08-1 BCA at 167,162. The JTR provides no exception that would allow Mr. Thomas to be compensated for more than 180 days of SIT, and the Board has no authority to create such an exception.

Decision

The claim is denied.

H. CHUCK KULLBERG
Board Judge